

109TH CONGRESS  
1ST SESSION

# H. R. 1526

To amend the Foreign Intelligence Surveillance Act of 1978 and title 18, United States Code, to strengthen protections of civil liberties in the exercise of the foreign intelligence surveillance authorities under Federal law, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2005

Mr. OTTER (for himself, Mr. SIMPSON, Mr. FLAKE, Mr. SANDERS, Mr. CONYERS, Mr. KUCINICH, Mr. PAUL, Mr. UDALL of New Mexico, Mr. MEEKS of New York, and Mr. BISHOP of Utah) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 and title 18, United States Code, to strengthen protections of civil liberties in the exercise of the foreign intelligence surveillance authorities under Federal law, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Security and Freedom  
3 Ensured Act of 2005 (SAFE) Act”.

4 **SEC. 2. LIMITATION ON ROVING WIRETAPS UNDER FOR-**  
5 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**  
6 **1978.**

7       Section 105(c) of the Foreign Intelligence Surveil-  
8 lance Act of 1978 (50 U.S.C. 1805(c)) is amended—

9           (1) in paragraph (1)—

10               (A) in subparagraph (A), by inserting be-  
11 fore the semicolon the following: “, however, if  
12 the identity is unknown, the facilities and  
13 places shall be specified”; and

14               (B) in subparagraph (B), by inserting be-  
15 fore the semicolon the following: “, however, if  
16 any of the facilities or places are unknown, the  
17 identity of the target shall be specified”; and

18           (2) in paragraph (2)(A), by inserting before the  
19 semicolon the following: “, and, in cases where the  
20 facility or place at which the surveillance is to be di-  
21 rected is not known at the time the order is issued,  
22 that the surveillance be conducted only when the  
23 presence of the target at a particular facility or  
24 place has been ascertained by the person conducting  
25 the surveillance”.

1 **SEC. 3. LIMITATION ON AUTHORITY TO DELAY NOTICE OF**  
2 **SEARCH WARRANTS.**

3 Section 3103a of title 18, United States Code, is  
4 amended—

5 (1) in subsection (b)—

6 (A) in paragraph (1), by striking “may  
7 have an adverse result (as defined in section  
8 2705)” and inserting “will endanger the life or  
9 physical safety of an individual, result in flight  
10 from prosecution or the intimidation of a poten-  
11 tial witness, or result in the destruction of or  
12 tampering with the evidence sought under the  
13 warrant”; and

14 (B) in paragraph (3), by striking “a rea-  
15 sonable period” and all that follows and insert-  
16 ing “seven calendar days, which period, upon  
17 application of the Attorney General, the Deputy  
18 Attorney General, or an Associate Attorney  
19 General, may thereafter be extended by the  
20 court for additional periods of up to 21 cal-  
21 endar days each if the court finds, for each ap-  
22 plication, reasonable cause to believe that notice  
23 of the execution of the warrant will endanger  
24 the life or physical safety of an individual, re-  
25 sult in flight from prosecution, or result in the

1           destruction of or tampering with the evidence  
2           sought under the warrant.”; and

3           (2) by adding at the end the following new sub-  
4       section:

5       “(c) REPORTS.—(1) On a semiannual basis, the At-  
6       torney General shall transmit to Congress and make pub-  
7       lic a report concerning all requests for delays of notice,  
8       and for extensions of delays of notice, with respect to war-  
9       rants under subsection (b).

10       “(2) Each report under paragraph (1) shall include,  
11       with respect to the preceding six-month period—

12           “(A) the total number of requests for delays of  
13       notice with respect to warrants under subsection (b);

14           “(B) the total number of such requests granted  
15       or denied; and

16           “(C) for each request for delayed notice that  
17       was granted, the total number of applications for ex-  
18       tensions of the delay of notice and the total number  
19       of such extensions granted or denied.”.

1 **SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOK-**  
2 **SELLER, AND OTHER PERSONAL RECORDS**  
3 **UNDER FOREIGN INTELLIGENCE SURVEIL-**  
4 **LANCE ACT OF 1978.**

5 (a) APPLICATIONS FOR ORDERS.—Subsection (b) of  
6 section 501 of the Foreign Intelligence Surveillance Act  
7 of 1978 (50 U.S.C. 1861) is amended—

8 (1) in paragraph (1), by striking “and” at the  
9 end;

10 (2) in paragraph (2), by striking the period at  
11 the end and inserting “; and”; and

12 (3) by adding at the end the following new  
13 paragraph:

14 “(3) shall specify that there are specific and  
15 articulable facts giving reason to believe that the  
16 person to whom the records pertain is a foreign  
17 power or an agent of a foreign power.”.

18 (b) ORDERS.—Subsection (c)(1) of that section is  
19 amended by striking “finds” and all that follows and in-  
20 serting

21 “finds that—

22 “(A) there are specific and articulable facts giv-  
23 ing reason to believe that the person to whom the  
24 records pertain is a foreign power or an agent of a  
25 foreign power; and

1           “(B) the application meets the other require-  
2           ments of this section.”.

3           (c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF  
4   RECORDS.—Section 502 of that Act (50 U.S.C. 1862) is  
5   amended—

6           (1) in subsection (a), by striking “the Perma-  
7           nent” and all that follows through “the Senate” and  
8           inserting “the Permanent Select Committee on Intel-  
9           ligence and the Committee on the Judiciary of the  
10          House of Representatives and the Select Committee  
11          on Intelligence and the Committee on the Judiciary  
12          of the Senate”; and

13          (2) in subsection (b), by striking “On a semi-  
14          annual basis,” and all that follows through “a report  
15          setting forth” and inserting “The report of the At-  
16          torney General to the Permanent Select Committee  
17          on Intelligence and the Committee on the Judiciary  
18          of the House of Representatives and the Select Com-  
19          mittee on Intelligence and the Committee on the Ju-  
20          diary of the Senate under subsection (a) shall set  
21          forth”.

1 **SEC. 5. PRIVACY PROTECTIONS FOR COMPUTER USERS AT**  
 2 **LIBRARIES UNDER NATIONAL SECURITY AU-**  
 3 **THORITY.**

4 Section 2709 of title 18, United States Code, is  
 5 amended—

6 (1) in subsection (a)—

7 (A) by inserting “(1)” before “A wire or  
 8 electronic communication service provider”; and

9 (B) by adding at the end the following new  
 10 paragraph:

11 “(2) A library shall not be treated as a wire or  
 12 electronic communication service provider for pur-  
 13 poses of this section.”; and

14 (2) by adding at the end the following new sub-  
 15 section:

16 “(f) LIBRARY DEFINED.—In this section, the term  
 17 ‘library’ means a library (as that term is defined in section  
 18 213(2) of the Library Services and Technology Act (20  
 19 U.S.C. 9122(2)) whose services include access to the  
 20 Internet, books, journals, magazines, newspapers, or other  
 21 similar forms of communication in print or digitally to pa-  
 22 trons for their use, review, examination, or circulation.”.

23 **SEC. 6. MODIFICATION OF DEFINITION OF DOMESTIC TER-**  
 24 **RORISM.**

25 (a) MODIFICATION.—Section 2331(5) of title 18,  
 26 United States Code, is amended—

1           (1) by striking subparagraphs (A) and (B) and  
2       inserting the following new subparagraph (A):

3           “(A) involve acts dangerous to human life  
4       that constitute a Federal crime of terrorism (as  
5       that term is defined in section 2332b(g)(5) of  
6       this title); and”;

7           (2) by redesignating subparagraph (C) as sub-  
8       paragraph (B).

9       (b) CONSTRUCTION.—Nothing in section 2331 of title  
10   18, United States Code, shall be construed to prohibit a  
11   State from enforcing the laws of the State relating to ter-  
12   rorism.

13   **SEC. 7. EXTENSION OF PATRIOT SUNSET PROVISION.**

14       Section 224(a) of the USA PATRIOT ACT of 2001  
15   (Public Law 107–56; 115 Stat. 295) is amended—

16           (1) by striking “213, 216, 219,”; and

17           (2) by inserting “and section 505” after “by  
18   those sections)”.

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